

PSJ3  
Exhibit 549

1                   IN THE CIRCUIT COURT OF PUTNAM COUNTY  
2                                   WEST VIRGINIA

3           -----x  
4           MICHAEL MC CALLISTER,  
5           WILLIAM DUFFIELD, and  
6           WILLIAM PETE JONES, II, on behalf  
7           of themselves and all others  
8           similarly situated,

9                                   Plaintiffs,

10                                   vs.                                   Civil Action No. 01-C-238  
11   Date: August 27, 2004  
12           PURDUE PHARMA L.P., a Delaware  
13           corporation, et al.,  
14                                   Defendants.

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18                                   DEPOSITION OF KATHLEEN FOLEY, M.D.

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26           The deposition of Kathleen Foley, M.D. was  
27           taken on August 27, 2004, at the law offices of  
28           Chadbourn & Parke, LLP, 30 Rockefeller Plaza,  
29           New York, New York before Susan Wandzilak,  
30           Registered Professional Reporter and Notary  
31           Public in the State of Connecticut.

32                                   DEL VECCHIO REPORTING SERVICES, LLC  
33                                   PROFESSIONAL SHORTHAND REPORTERS  
34   117 RANDI DRIVE  
35                                   MADISON, CONNECTICUT 06443  
36           MADISON, CT 06443                                   HARTFORD, CT 06106  
37           203-245-9583   800-839-6867

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1 A. No, never.

2 Q. Have you ever been employed by any  
3 pharmaceutical company in any capacity?

4 A. No, I have not.

5 Q. Have you ever testified by way of  
6 deposition or trial testimony prior to today?

7 A. I think I did and I can't remember the  
8 exact details. It was in the eighties and it was  
9 a case related to the drug hydromorphone and a  
10 discussion of whether it should be available for  
11 any company to make. But I don't, you know, I  
12 don't remember all the details of it. I am not  
13 sure if it was a deposition or just I appeared in  
14 court once. And that's all that I can say about  
15 it.

16 Q. And, that was back in the eighties?

17 A. It was in the eighties, yeah.

18 Q. Since that time, you can't recall any  
19 time when you have actually testified in court or  
20 in deposition for any reason?

21 A. No.

22 Q. Have you ever been provided any monetary  
23 grants or funding from any drug company to do  
24 research work or any other work?

25 A. Yes, I have. I have been on the

1 speakers bureaus of various drug companies over  
2 the years including Purdue and Abbott and Noel  
3 and Janssen. And I have -- I have not directly  
4 received grants from these companies but my  
5 institution has.

6 Q. Sloan-Kettering?

7 A. Yes.

8 Q. And, can you give me an idea of some of  
9 the types of grants Sloan-Kettering might receive  
10 from drug companies?

11 A. In the, again, in the early eighties, we  
12 were involved in extending a slow release  
13 morphine preparation. Subsequent to that, I have  
14 not been involved in studying any of their drugs  
15 so I have not received them.

16 Q. You say in the early eighties there was  
17 some involvement with slow release morphine?

18 A. Right.

19 Q. And, tell me more about that?

20 A. The -- our particular analgesic group is  
21 well-known for studying opiate analgesics and we  
22 care for a large number of patients with pain and  
23 cancer. And we had a large national cancer  
24 institute grant to study these drugs. And so  
25 within that framework of a large study group, we

1 A. Yes, I do. I still believe it now.

2 Q. Then it says psychological, social and  
3 economic factors also play a part. Do you see  
4 that?

5 A. Yes.

6 Q. And, you believed that in 1985; is that  
7 correct?

8 A. That is correct.

9 Q. And, you believe that today, is that  
10 correct?

11 A. I do, yes.

12 Q. And, psychological dependence as used in  
13 that sentence is synonymous with addiction; is  
14 that correct?

15 A. Yes, that is correct.

16 Q. I would like to show you another article  
17 or paper that I believe that you authored with  
18 Russ Portenoy, if you could take a look at that?

19 A. Um-uh.

20 Q. This article looks to be around 1985.  
21 Is that true?

22 A. Yes, um-uh.

23 Q. And, this article is titled chronic use  
24 of opioid analgesics in non-malignant pain, a  
25 report of 38 cases?

1           A.     Right.

2           MR. HOFFMANN:   Excuse me, Mark, you  
3     haven't been marking any of these exhibits to  
4     the deposition.

5           MR. COLANTONIO:   I haven't.

6           MR. HOFFMANN:   I would like to have them  
7     marked.   So can we go back and mark the  
8     article that she talked to just a minute ago  
9     as Exhibit 1 and then this one as 2?

10          MR. COLANTONIO:   We will mark a clean  
11     copy up to 47, how's that?

12          MR. HOFFMANN:   That's fine.

13          (Whereupon, Plaintiff's Exhibits 1 and 2  
14     were marked for identification.)

15          MR. COLANTONIO:   He has about three  
16     minutes left on the tape.

17          MR. HOFFMANN:   So why don't we take a  
18     break.

19          MR. COLANTONIO:   Yeah, let's do that.

20          THE VIDEOGRAPHER:   Going off the record,  
21     9:25, end of tape number one.

22          (Whereupon, a brief recess was taken.)

23          THE VIDEOGRAPHER:   Returning to the  
24     record, 9:40 a.m., beginning of tape number  
25     two.



1 BY MR. COLANTONIO:

2 Q. If you can look at the article in front  
3 of you now, we will mark that as Exhibit 2.  
4 That's the -- the title is chronic use of opiate  
5 analgesics in non-malignant pain, report of 38  
6 cases. Do you see that?

7 A. Yes.

8 Q. And, you were a co-author of that  
9 article; is that correct?

10 A. That is correct.

11 Q. And, this was back in 1985; is that  
12 true?

13 A. Yes.

14 Q. This is while you were at Sloan-  
15 Kettering; is that right?

16 A. Right. I have only been at Sloan-  
17 Kettering.

18 Q. That's probably a poor way to phrase the  
19 question. If you would look back at page 183,  
20 there is a section that talks about guidelines.  
21 Do you see that?

22 A. Yes. Well, guidelines, okay.

23 Q. Do you see that?

24 A. Yes.

25 Q. As I read this, this appears to me to be

1 sort of a summary of guidelines that were  
2 proposed by you for the use of opioid maintenance  
3 therapy at that time. Is that a fair reading of  
4 that or --

5 A. Well, this is a paper of individual  
6 cases in which we then said we were proposing how  
7 you might think about developing guidelines, you  
8 know. I don't think two doctors can develop  
9 guidelines, necessarily.

10 Q. But, you were proposing some guidelines,  
11 I presume?

12 A. That is correct, yes.

13 Q. Based upon your experience with  
14 patients?

15 A. That is correct.

16 Q. All right; the first sentence under  
17 guidelines says, opioid maintenance therapy  
18 should be considered only after all reasonable  
19 attempts at pain control have failed and  
20 persistent pain is the major impediment to  
21 improve function?

22 A. Um-uh.

23 Q. And, that was true in 1985. That was  
24 your thought in 1985; is that true?

25 A. That was what we thought in 1985.